



# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
*Executive Director*

### Division of Water Rights

KENT L. JONES  
*State Engineer/Division Director*

July 18, 2013

#### Water Users:

Attached is a State of Utah, State Engineer's Agency Action order requirement for stilling basin retrofit to the existing measuring device associated with your diversion. Additional information is provided in the SEAA attached. Please take time to review the details of the installation required and consequences if not completed with the timeframe allowed.

The Division intends to start installation of automated telemetry equipment on ditches below the Patterson Dam. I encourage you to contact me to coordinate installation and inspection of these devices.

I can be reached at (801) 538-7430, please contact me.

Sincerely,

Mike Silva  
Distribution Engineer

Enclosure

cc: Southwestern Regional office



## BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p><b>Emerson Ditch Calvin &amp; Floyd Yardley PO Box 107 Beaver, UT 84713</b></p> <p><b>RESPONDENT</b></p>	<p><b>CONTROL STRUCTURE AND MEASURING DEVICE NOTICE</b></p> <p>SEAA No. 1465 DISTRIBUTION ACCOUNT: 100145 WATER RIGHTS: 77-699, 700, 701 et al</p>
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### Water User:

The Division of Water Rights recognizes that suitable measuring devices exist on your ditch as required by state law, however the device is not currently compatible with real time monitoring and telemetry that is now required. Your device must be upgraded and compatible with real time monitoring equipment. This requires the installation of an 18" diameter stilling well, consisting of a vertical pipe set in concrete, located next to the existing Parshall flume. The bottom elevation of this pipe must be 6" below the entrance floor of the flume. The stilling well must be sealed and connected to the flume using a minimum 1.25 diameter pipe. Once this device is installed, the Division plans to install an automated measuring and telemetry system to provide real time flow monitoring at your diversion. This work must be completed within 30 days of the date of this order. If not completed within 30 days (August 19, 2013) the State Engineer will forbid the use of water until compliance with this requirement and order is accomplished.

### I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4. **Controlling works and measuring devices**, states in part :

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, except as provided by Subsection (4), shall construct or install and maintain controlling works and a measuring device at:

- (a) each location where water is diverted from a source; and
- (b) any other location required by the state engineer.

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

- (a) the measuring device; and
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works....

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

- (a) forbid the use of water until the user complies with the state engineer's requirement; and
- (b) commence enforcement proceedings authorized by Section 73-2-25.

Amended by Chapter 311, 2008 General Session

## II. STATEMENT OF FACTS

1. The Respondent is the water user under the captioned distribution account and owner of the captioned water rights. Water under said rights is distributed to the Respondent through a headgate diversion from the Beaver River into the respondent's Canal.
2. Water Commissioner Steven Gale has affirmed that the measuring device below the headgate (Parshall flume) exists and can be upgraded to have a stilling well.
3. In order for the Commissioner and the Division to properly administer the delivery of water to the Respondent, a stilling well must be installed on the Respondent's Parshall Flume to satisfy this corrective action.

## III. ACTIONS REQUIRED

1. The Respondent is hereby notified that the Respondent's Parshall Flume must be retrofitted to include an 18" Diameter stilling well, suitable for installation of automated measurement equipment. Total height of this pipe is expected to be 7 feet tall.
2. In addition, the subject flume is to be repaired or replaced in a manner such that it is level, equipped with a suitable and legible staff gage, preceded in flow by an adequate stilling pool and followed by an adequate outfall condition to assure accurate readings, and have an attached stilling well that is sealed and influenced only by the connection to the Parshall flume.
3. The area surrounding the Respondent's facilities are to be made sufficiently clear of vegetation to allow reasonable access and observation by the Commissioner. Once installed livestock must be kept away from the equipment and stilling well using fencing.
4. The Respondent's facilities are to be perpetually maintained in good working order as described above.
5. Prior to commencing the required work and during the construction and repairs, the Respondent must consult with the Water Rights Distribution Engineer, prior to any work being done and to assure that the planned improvements will satisfy the requirements of this Notice.
6. The required work must be completed and the Commissioner notified of said completion within 30 days of the date of this Notice, being no later than August 19, 2013.

## IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).

**Please contact the Division of Water Rights, Distribution Engineer: Mike Silva at (801) 538-7430 prior to the start of any work. Arrangements must be made and inspections done at the time of installation of the required stilling well.**

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 18<sup>th</sup> day of July, 2013, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Calvin & Floyd Yardley  
PO Box 107  
Beaver, UT 84713

USPS TRACKING #  
& CUSTOMER  
RECEIPT

**9114 9010 7574 2467 1009 38**  
For Tracking or Inquiries go to USPS.com  
or call 1-800-222-1811.

Kelly Horne

Kelly Horne  
Division of Water Rights  
Field Services Secretary